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DECISION



THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D. C. 20548

*[Protest Alleging Other Bidders Were Not Responsible]*

FILE: B-196868

DATE: February 27, 1980

MATTER OF: Ira Gelber Food Services, Inc.

DIGEST:

1. Allegation that low bidders will not be able to provide services required at bid prices submitted involves question of bidder responsibility and our Office does not review affirmative determinations of responsibility except in cases of fraud or misapplication of definitive responsibility criteria set forth in solicitation, neither of which applies here.
2. No legal basis exists to preclude contract award merely because low bidder(s) submitted below-cost bid(s).

Invitation for bids No. DAKF31-79-B-0039 was issued for the procurement of mess attendant services to be performed at Fort Devens, Massachusetts. Ira Gelber Food Services, Inc. (Gelber), the sixth low bidder, protests an award to any of the five lower bidders on the basis that, as the incumbent contractor, knowing the amount of man-hours needed to perform the work and having submitted a bare minimum bid price, it believes that none of these bidders has offered sufficient man-hours (as indicated by the prices they bid) to perform the work. Gelber has allegedly demonstrated this fact by a comparison of its bid price with those of the other bidders.

We note that bidders were not required to explain in their bids how they computed their prices or the number of man-hours proposed. They were merely to fill in the unit and total price for each category of service. Thus, the question raised by Gelber is whether the bidders are able to properly perform the required services. This is a matter of bidder responsibility. The contracting officer made an affirmative determination of responsibility with respect to the low responsive bidder.

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Our Office does not review protests of affirmative determinations of responsibility unless fraud on the part of the procuring officials is alleged or the invitation contains definitive responsibility criteria which allegedly have not been applied. Central Metal Products, Inc., 54 Comp. Gen. 66 (1974), 74-2 CPD 64; Bowman Enterprises, Inc., B-194015, February 16, 1979, 79-1 CPD 121. Neither of the two exceptions applies in this case.

Further, if a bidder has been found to be otherwise responsible, the fact that it may have submitted a below-cost bid does not constitute a legal basis for precluding or disturbing a contract award. Columbia Loose-Leaf Corporation, B-193659, January 23, 1979, 79-1 CPD 45.

Accordingly, the protest is dismissed.

*Harry R. Van Cleave*  
for Milton J. Socolar  
General Counsel